

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

CHARLES D. BAKER
GOVERNOR

KARYN E. POLITO
LIEUTENANT GOVERNOR

**ORDER SUSPENDING CERTAIN PROVISIONS
OF THE OPEN MEETING LAW, G. L. c. 30A, § 20**

WHEREAS, on March 10, 2020, I, Charles D. Baker, Governor of the Commonwealth of Massachusetts, acting pursuant to the powers provided by Chapter 639 of the Acts of 1950 and Section 2A of Chapter 17 of the General Laws, declared that there now exists in the Commonwealth of Massachusetts a state of emergency due to the outbreak of the 2019 novel Coronavirus ("COVID-19"); and

WHEREAS, many important functions of State and Local Government are executed by "public bodies," as that term is defined in G. L. c. 30A, § 18, in meetings that are open to the public, consistent with the requirements of law and sound public policy and in order to ensure active public engagement with, contribution to, and oversight of the functions of government; and

WHEREAS, both the Federal Centers for Disease Control and Prevention ("CDC") and the Massachusetts Department of Public Health ("DPH") have advised residents to take extra measures to put distance between themselves and other people to further reduce the risk of being exposed to COVID-19. Additionally, the CDC and DPH have advised high-risk individuals, including people over the age of 60, anyone with underlying health conditions or a weakened immune system, and pregnant women, to avoid large gatherings.

WHEREAS, sections 7, 8, and 8A of Chapter 639 of the Acts of 1950 authorize the Governor, during the effective period of a declared emergency, to exercise authority over public assemblages as necessary to protect the health and safety of persons; and

WHEREAS, low-cost telephone, social media, and other internet-based technologies are currently available that will permit the convening of a public body through virtual means and allow real-time public access to the activities of the public body; and

WHEREAS section 20 of chapter 30A and implementing regulations issued by the Attorney General currently authorize remote participation by members of a public body, subject to certain limitations;

NOW THEREFORE, I hereby order the following:

(1) A public body, as defined in section 18 of chapter 30A of the General Laws, is hereby relieved from the requirement of section 20 of chapter 30A that it conduct its meetings in a public place that is open and physically accessible to the public, provided that the public body makes provision to ensure public access to the deliberations of the public body for interested members of the public through adequate, alternative means.

Adequate, alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring. Where allowance for active, real-time participation by members of the public is a specific requirement of a general or special law or regulation, or a local ordinance or by-law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

A municipal public body that for reasons of economic hardship and despite best efforts is unable to provide alternative means of public access that will enable the public to follow the proceedings of the municipal public body as those activities are occurring in real time may instead post on its municipal website a full and complete transcript, recording, or other comprehensive record of the proceedings as soon as practicable upon conclusion of the proceedings. This paragraph shall not apply to proceedings that are conducted pursuant to a general or special law or regulation, or a local ordinance or by-law, that requires allowance for active participation by members of the public.

A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.

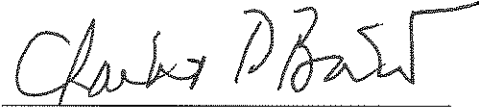
(2) Public bodies are hereby authorized to allow remote participation by all members in any meeting of the public body. The requirement that a quorum of the body and the chair be physically present at a specified meeting location, as provided in G. L. c. 30A, § 20(d) and in 940 CMR 29.10(4)(b), is hereby suspended.

(3) A public body that elects to conduct its proceedings under the relief provided in sections (1) or (2) above shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely as provided in section (2).

(4) All other provisions of sections 18 to 25 of chapter 30A and the Attorney General's implementing regulations shall otherwise remain unchanged and fully applicable to the activities of public bodies.

This Order is effective immediately and shall remain in effect until rescinded or until the State of Emergency is terminated, whichever happens first.

Given in Boston at 6:40 PM this 12th day of
March, two thousand and twenty.

A handwritten signature in dark ink, appearing to read "Charles D. Baker". The signature is written in a cursive, flowing style. The first name "Charles" is written in a larger, more prominent script, followed by "D." and "Baker". The signature is positioned above a horizontal line.

CHARLES D. BAKER
GOVERNOR
Commonwealth of Massachusetts



Town of Arlington Notice of Meeting

In accordance with the provisions of Massachusetts General Laws,
Chapter 39, Section 23B, notice is hereby given of a meeting of the:

Finance Committee

Wednesday, October 28, 2020
7:30 p.m. – 10:00 p.m.
Conducted by Remote Participation - Zoom Meeting

AGENDA:

- **Review of Warrant for Special Town Meeting scheduled for November 16**
- **Hearings on Financial Articles**
- **Affordable Housing Trust Fund Article and Related Issues**
- **Reports from Finance Committee Members**

Charlie Fosskett has invited you to a Zoom Meeting

Topic: Finance Committee

Time: 7:30 PM Eastern Time (US and Canada) on October 28, 2020

Join Zoom

Meeting <https://us02web.zoom.us/j/89728081829?pwd=bW1lY2MlSXFyZ2ZaNNRHY3ZlbGJoZz09>

Meeting ID: 897 2808 1829

Passcode: 628447

One tap mobile +16465588656,,89728081829#,,,,,0#,,628447# US (New York)

Dial by your location +1 646 558 8656 US (New York)

Members of the public are asked to send written comments to ediggins@town.arlington.ma.us

Documents regarding agenda items will be made available via the Town's website.

<https://www.mass.gov/doc/open-meeting-law-order-march-12-2020/download>

By Charlie Fosskett, Chairman Finance Committee



TOWN OF ARLINGTON
DEPARTMENT OF PLANNING and
COMMUNITY DEVELOPMENT

TOWN HALL, 730 MASSACHUSETTS AVENUE
ARLINGTON, MASSACHUSETTS 02476
TELEPHONE 781-316-3090

MEMORANDUM

To: Select Board
Finance Committee

From: Jennifer Raitt, Director, Planning and Community Development
on behalf of the Housing Plan Implementation Committee

CC: Housing Plan Implementation Committee
Adam Chapdelaine, Town Manager

Date: October 21, 2020

RE: Warrant Article 8 - Municipal Affordable Housing Trust Fund

The Housing Production Plan (HPP), adopted in 2016 by the Select Board and Redevelopment Board and approved by the Massachusetts Department of Housing and Community Development, identifies establishing a Municipal Affordable Housing Trust (MAHT) per M.G.L. Chapter 44 Section 55C, as strategy 14 (see page 69). Under MGL Chapter 44, Section 55C, a MAHT creates a separate fund for local initiatives to create and preserve affordable housing. The HPP points out that a benefit of having a MAHT is that resources can be allocated to the Trust and can be expended by the Board of Trustees without a lengthy approval process. More information about MAHTs can be found in the 2018 Municipal Affordable Housing Trust Fund Guidebook published by the Massachusetts Housing Partnership: https://www.mhp.net/writable/resources/documents/MAHTGuidebook_2018.pdf.

The Housing Plan Implementation Committee (HPIC) has discussed the benefits of a MAHT since the adoption of the HPP, and had more serious conversations about this tool since the fall of 2019. At its meeting on January 17, 2020, the HPIC voted to support the filing of a Warrant Article that would enable the Town to create a Municipal Affordable Housing Trust Fund for Arlington, which was refiled for this Special Town Meeting. If adopted by Town Meeting, the Trust would be governed by the bylaw and its authority would be limited by MGL Chapter 44 Section 55C. The Trust would be a public body and the Trustees would be "special municipal employees." The Trust and the Trustees would be subject to the Open Meeting Law and the Conflict of Interest Law. The Trust is required to work with the Arlington Treasurer/Collector as the custodian of funds, prepare an annual budget, and report annually on its activities. The HPIC voted on October 20, 2020, to submit the attached draft bylaw to the Select Board.¹

The HPIC discussed possible uses for the MAHT including acquisition and preservation of market-rate affordable units, rental assistance for households at risk of homelessness, buy down/ down payment assistance, and the ability for the Town to exercise the right of first refusal on existing affordable units. The HPIC believes that these actions are outside of the important housing options that the Arlington Housing Authority (AHA) and the private Housing Corporation of Arlington (HCA) provide for the

¹ All six members of the HPIC voted affirmatively. One member indicated that her affirmative vote is conditioned on the Trust not providing any financial support to Chapter 40B projects.

community. Furthermore, the MAHT would serve as a vehicle to aggregate existing resources as well as leverage new public and private resources to support the creation and preservation of affordable units by AHA, HCA, and others.

This is not the first time that a MAHT has been proposed. In 2008, a Warrant Article was advanced to Annual Town Meeting, but no action was taken on the article following the recommendation of the Select Board. The Select Board's 2008 Report to Town Meeting noted that MAHTs work well in concert with the Community Preservation Act (CPA), which Arlington had not yet adopted. Based on 2019 data from the Massachusetts Housing Partnership, 110 cities and towns have adopted MAHTs and 87 of those 110 cities and towns have also adopted the CPA. Arlington adopted the CPA at the 2014 Annual Town Meeting. If a Trust is established, the Board of Trustees may apply to the CPA Committee for funds based on the Trustee's goals.

The HPIC sees that one of the major benefits of a MAHT is to act quickly and nimbly particularly when a real estate opportunity becomes available that aligns with the Trust's goals. Currently, if the Town of Arlington wanted to acquire property in order to create or preserve affordable units, the Select Board and Town Meeting would need to approve the transaction. However, the long process to Town Meeting puts any transaction at risk, and therefore, is not ideal for the main goals of the HPIC in advancing a MAHT. The HPIC sees this level of autonomy as being crucial for a MAHT to be successful in its goals.

The HPIC recommended a Board of Trustees with 7 members who would bring a range of experiences. The Board would develop a reasonable action plan, with assistance from the HPIC, Select Board, Department of Planning and Community Development and input from the community. With a well-developed action plan, the Board can function without a dedicated staff person as do many MAHTs function. In the future, if the MAHT is well-capitalized, the Board may find that a coordinator is necessary, and that position could be funded through the Trust Fund.

Overall, the concerns of the Select Board in 2008 may have been addressed by actions of the Town has taken since 2008. The HPIC values input from the Select Board on the level of autonomy afforded to the Board of Trustees and the types of projects that may be funded. Specifically, the HPIC recommends that the Select Board have oversight on decisions sell, lease, exchange, transfer or convey any personal, mixed, or real property as well as borrowing, mortgaging, and pledging assets, as a way to retain the flexibility of the trust while ensuring accountability.

Adopting a MAHT is another way for the Town to support low- to moderate-income individuals and households to achieve housing stability. We hope that the Select Board would support this effort, and through a public process, a Board of Trustees would develop an action plan to identify its goals and strategies in operating the Trust.

Lastly, this proposal is a concrete step for the Town to take in advancing race and equity goals. Generally enabling the town to have more efficient and effective mechanisms for investing in affordable housing both helps to remove barriers to creating and preserving affordable housing and demonstrates and affirmative commitment by the Town to people who earn lower incomes.

ARTICLE 8

**ACCEPTANCE OF LEGISLATION/ BYLAW AMENDMENT/
MUNICIPAL AFFORDABLE HOUSING TRUST FUND**

To see if the Town will accept Massachusetts General Laws c. 44 § 55C, to authorize the creation of a Municipal Affordable Housing Trust Fund to support the development of affordable housing in Arlington, establish a new bylaw for the administration of same; or take any action related thereto.

Section 1. Name of the Trust

The Trust shall be called the “Arlington Affordable Housing Trust Fund.”

Section 2. Purpose

The purpose of the Trust shall be to provide for the preservation and creation of affordable housing in the Town of Arlington as defined by the Arlington Zoning Bylaw for the benefit of households earning at or below 80 percent area median income.

Section 3. Board of Trustees

- A. Composition. There shall be a Board of Trustees (Trustees) of the Arlington Affordable Housing Trust Fund composed of one ex officio non-voting member and seven voting members. The Town Manager or the Town Manager’s designee shall serve as the ex officio member. The voting members shall include: a member of the Select Board (designated by the Select Board) and six members appointed by the Select Board. The voting members shall be residents who may have relevant experience in the fields of real estate, housing, banking, finance, law, architecture, social services, or other areas of expertise applicable to advancing the purpose and goals of the Trust. Of the Select Board appointees, at least one shall be a tenant who earns a low- or moderate-income, and resides in subsidized housing units as defined by G.L. c.40B or who receives state- or federally-sponsored rental subsidies and demonstrates knowledge of tenant issues.
- B. Appointment of Trustees. Trustees shall serve for a term of two years, except that two of the initial Trustee appointments shall be for a term of one year, and may be re-appointed at the discretion of the Select Board.
- C. Officers. The Trustees shall designate a chair, vice chair, treasurer, and clerk.
- D. Removal. A Trustee may be removed by the Select Board for cause following a hearing.
- E. Declaration of Trust. The Trustees are authorized to execute a Declaration of Trust and Certificate of Trust for the Arlington Affordable Housing Trust Fund, to be recorded with the Middlesex South Registry of Deeds and filed with the Middlesex South Registry District of the Land Court, following approval by the Select Board.
- F. Authority and Responsibilities.
 - 1) The powers of the Trustees, all of which shall be carried on in furtherance of the purposes set forth in G.L. c.44, §55C, and inclusive of any future amendments, and

pursuant to the provisions of a Declaration of Trust to be approved by the Select Board, shall include the following:

- a) To accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the Trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the Trust, and such funds shall be accounted for separately by the Trust; and provided further, that at the end of each fiscal year, the Trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the Arlington Community Preservation Act Committee for inclusion in the community preservation initiatives report, form CP-3, to the Department of Revenue;
- b) To purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
- c) To sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the Trustees deem advisable notwithstanding the length of any such lease or contract;
- d) To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Trustees engage for the accomplishment of the purposes of the Trust;
- e) To employ advisors and agents, such as accountants, appraisers and lawyers as the Trustees deem necessary;
- f) To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;
- g) To apportion receipts and charges between incomes and principal as the Trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;
- h) To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;

- i) To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Trustees may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Trustees may deem necessary and appropriate;
 - j) To carry property for accounting purposes other than acquisition date values;
 - k) With Select Board approval, to borrow money on such terms and conditions and from such sources as the Trustees deem advisable, to mortgage and pledge Trust assets as collateral;
 - l) To make distributions or divisions of principal in kind;
 - m) To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Trustees may deem appropriate;
 - n) To manage or improve real property and to abandon any property which the Trustees determine not to be worth retaining;
 - o) To hold all or part of the Trust property uninvested for such purposes and for such time as the Trustees may deem appropriate; and
 - p) To extend the time for payment of any obligation to the Trust.
- 2) The powers and duties enumerated above are intended to encompass all powers and duties of the Trustees. Any action, power or duty not enumerated above shall require prior approval of the Select Board.

Section 4. Acts of Trustees

- A. A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees, with the exception that any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property, borrowing, and mortgaging and pledging of assets must be approved by at least two-thirds of the appointed Trustees.
- B. No Trustee shall be required to post bond.
- C. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.
- D. Any borrowing by the Trust shall require the prior approval of the Select Board, and may not exceed 80 percent of the Trust's total assets. Any debt incurred by the Trust shall not constitute a pledge of the full faith and credit of the Town of Arlington, and all documents related to any debt shall contain a statement that the holder of any such debt shall have no recourse against the Town of Arlington, with an acknowledgement of said statement by the holder.

- E. Any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property, borrowing, and mortgaging and pledging of assets must be approved by a majority of the Select Board.

Section 5. Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning bylaw, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the Trustees within one year of the date they were appropriated into the Trust, remain Trust property set forth in G.L. c.44, §55C.

Section 6. Meetings of the Trust

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, G.L. c. 39, §§ 23A, 23B and 23C. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

Section 7. Custodian of Funds

The Arlington Treasurer/Collector shall be the custodian of Trust's funds and shall maintain separate accounts and records for such funds. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust Fund. In accordance with G.L. c. 44, § 55C, the books and records of the Trust shall be audited annually by an independent auditor in accordance with accepted accounting practices or take any other action relative thereto. Upon receipt of the audit by the Trustees, a copy shall be provided forthwith to the Select Board. The Trustee designated as treasurer shall also liaise with the custodian of the funds on a monthly basis.

Section 8. Legal Status

- A. The Trust is public employer and the Trustees are public employees for the purposes of G.L. c. 258.
- B. The Trust shall be deemed a municipal agency and the Trustees special municipal employees for the purposes of G.L. c. 268A.
- C. The Trust is exempt from G.L. c. 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.
- D. The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of G.L. c. 39.

- E. The Trust is a board of the Town for purposes of G.L. c. 30B and G.L. c. 40 § 15A but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the town shall be exempt from said Chapter 30B.

Section 9. Duration of the Trust

This Trust shall be of indefinite duration, until terminated in accordance with applicable law. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Select Board for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Select Board, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

ARTICLE 8

ACCEPTANCE OF LEGISLATION/ BYLAW AMENDMENT/ MUNICIPAL AFFORDABLE HOUSING TRUST FUND

To see if the Town will accept Massachusetts General Laws c. 44 § 55C, to authorize the creation of a Municipal Affordable Housing Trust Fund to support the development of affordable housing in Arlington, establish a new bylaw for the administration of same; or take any action related thereto.

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Section 3. Board of Trustees

- A. Composition. There shall be a Board of Trustees (Trustees) of the Arlington Affordable Housing Trust Fund composed of one ex officio non-voting member and seven voting members. The Town Manager or the Town Manager’s designee shall serve as the ex officio member. The voting members shall include: a member of the Select Board (designated by the Select Board) and six members appointed by the Select Board. The voting members shall be residents or representatives of local housing organizations who may have relevant experience in the fields of real estate, housing, banking, finance, law, architecture, social services, or other areas of expertise applicable to advancing the purpose and goals of the Trust. Of the Select Board appointees, at least one shall be a tenant who earns a low- or moderate-income, and resides in subsidized housing units as defined by G.L. c.40B or who receives state- or federally-sponsored rental subsidies and demonstrates knowledge of tenant issues, and at least two shall be representatives of local housing organizations such as a housing authority or housing corporation dedicated to the creation and maintenance of affordable housing.
- B. Appointment of Trustees. Trustees shall serve for a term of two years, except that two of the initial Trustee appointments shall be for a term of one year, and may be re-appointed at the discretion of the Select Board.
- C. Officers. The Trustees shall designate a chair, vice chair, treasurer, and clerk.
- D. Removal. A Trustee may be removed by the Select Board for cause following a hearing.
- E. Declaration of Trust. The Trustees are authorized to execute a Declaration of Trust and Certificate of Trust for the Arlington Affordable Housing Trust Fund, to be recorded with the Middlesex South Registry of Deeds and filed with the Middlesex South Registry District of the Land Court, following approval by the Select Board.

F. Trustees shall serve without compensation, except for expenses which shall receive prior approval from the comptroller.

G. Authority and Responsibilities.

- 1) The powers of the Trustees, all of which shall be carried on in furtherance of the purposes set forth in G.L. c.44, §55C, and inclusive of any future amendments, and pursuant to the provisions of a Declaration of Trust to be approved by the Select Board, shall include the following:
 - a) To accept and receive real property, personal property or money, by gift, grant, contribution, devise or transfer from any person, firm, corporation or other public or private entity, including but not limited to money, grants of funds or other property tendered to the Trust in connection with any ordinance or by-law or any general or special law or any other source, including money from chapter 44B; provided, however, that any such money received from chapter 44B shall be used exclusively for community housing and shall remain subject to all the rules, regulations and limitations of that chapter when expended by the Trust, and such funds shall be accounted for separately by the Trust; and provided further, that at the end of each fiscal year, the Trust shall ensure that all expenditures of funds received from said chapter 44B are reported to the Arlington Community Preservation Act Committee for inclusion in the community preservation initiatives report, form CP-3, to the Department of Revenue;
 - b) To purchase and retain real or personal property, including without restriction investments that yield a high rate of income or no income;
 - c) To sell, lease, exchange, transfer or convey any personal, mixed, or real property at public auction or by private contract for such consideration and on such terms as to credit or otherwise, and to make such contracts and enter into such undertaking relative to Trust property as the Trustees deem advisable notwithstanding the length of any such lease or contract;
 - d) To execute, acknowledge and deliver deeds, assignments, transfers, pledges, leases, covenants, contracts, promissory notes, releases, grant agreements and other instruments sealed or unsealed, necessary, proper or incident to any transaction in which the Trustees engage for the accomplishment of the purposes of the Trust;
 - e) To employ advisors and agents, such as accountants, appraisers and lawyers as the Trustees deem necessary;
 - f) To pay reasonable compensation and expenses to all advisors and agents and to apportion such compensation between income and principal as the Trustees deem advisable;
 - g) To apportion receipts and charges between incomes and principal as the Trustees deem advisable, to amortize premiums and establish sinking funds for such purpose, and to create reserves for depreciation depletion or otherwise;

- h) To participate in any reorganization, recapitalization, merger or similar transactions; and to give proxies or powers of attorney with or without power of substitution to vote any securities or certificates of interest; and to consent to any contract, lease, mortgage, purchase or sale of property, by or between any corporation and any other corporation or person;
 - i) To deposit any security with any protective reorganization committee, and to delegate to such committee such powers and authority with relation thereto as the Trustees may deem proper and to pay, out of Trust property, such portion of expenses and compensation of such committee as the Trustees may deem necessary and appropriate;
 - j) To carry property for accounting purposes other than acquisition date values;
 - k) With Select Board approval, to borrow money on such terms and conditions and from such sources as the Trustees deem advisable, to mortgage and pledge Trust assets as collateral. Any borrowing by the Trust may not exceed 80 percent of the Trust's total assets. Any debt incurred by the Trust shall not constitute a pledge of the full faith and credit of the Town of Arlington, and all documents related to any debt shall contain a statement that the holder of any such debt shall have no recourse against the Town of Arlington, with an acknowledgement of said statement by the holder.(added language transferred from Section 4, paragraph D).
 - l) To make distributions or divisions of principal in kind;
 - m) To comprise, attribute, defend, enforce, release, settle or otherwise adjust claims in favor or against the Trust, including claims for taxes, and to accept any property, either in total or partial satisfaction of any indebtedness or other obligation, and subject to the provisions of this act, to continue to hold the same for such period of time as the Trustees may deem appropriate;
 - n) To manage or improve real property and to abandon any property which the Trustees determine not to be worth retaining;
 - o) To hold all or part of the Trust property uninvested for such purposes and for such time as the Trustees may deem appropriate; and
 - p) To extend the time for payment of any obligation to the Trust.
 - q) Beginning in the fiscal year ending on June 30, 2023, all non-incidental expenses incurred by the Town, as determined by the Town Manager, shall be reimbursed by the Trust.
 - r) The Trust shall carry sufficient insurance, as determined by the Town Manager, to protect the Town from any liability resulting from their operations.
- 2) The powers and duties enumerated above are intended to encompass all powers and duties of the Trustees. Any action, power or duty not enumerated above shall require prior approval of the Select Board.

Section 4. Acts of Trustees

- A. A majority of Trustees may exercise any or all of the powers of the Trustees hereunder and may execute on behalf of the Trustees any and all instruments with the same effect as though executed by all the Trustees, with the exception that any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property, borrowing, and mortgaging and pledging of assets must be approved by at least two-thirds of the appointed Trustees.
- B. No Trustee shall be required to post bond.
- C. No license of court shall be required to confirm the validity of any transaction entered into by the Trustees with respect to the Trust Estate.
- D. Any purchase, sale, lease, exchange, transfer or conveyance of any interest in real property, borrowing, and mortgaging and pledging of assets must be approved by a majority of the Select Board.

Section 5. Funds Paid to the Trust

Notwithstanding any general or special law to the contrary, all moneys paid to the Trust in accordance with any zoning bylaw, exaction fee, or private contribution shall be paid directly into the Trust and need not be appropriated or accepted and approved into the Trust. General revenues appropriated into the Trust become Trust property and these funds need not be further appropriated to be expended. All moneys remaining in the Trust at the end of any fiscal year, whether or not expended by the Trustees within one year of the date they were appropriated into the Trust, remain Trust property set forth in G.L. c.44, §55C. All funds, property and other assets shall be accounted for by the comptroller of the Town of Arlington who shall issue quarterly reports to the Trustees, Select Board, Town Manager and the Finance Committee.

Section 6. Meetings of the Trust

The Trust shall meet at least quarterly at such time and at such place as the Trustees shall determine. Notice of all meetings of the Trust shall be given in accordance with the provisions of the Open Meeting Law, G.L. c. 39, §§ 23A, 23B and 23C. A quorum at any meeting shall be a majority of the Trustees qualified and present in person.

Section 7. Custodian of Funds

The Arlington Treasurer/Collector shall be the custodian of Trust's funds and shall maintain separate accounts and records for such funds. Any income or proceeds received from the investment of funds shall be credited to and become part of the Trust Fund. In accordance with G.L. c. 44, § 55C, the books and records of the Trust shall be audited annually by an independent auditor, appointed by the Select Board, in accordance with accepted accounting practices or take any other action relative thereto. Upon receipt of the audit by the Trustees, a copy shall be provided forthwith to the Select Board. The Trustee designated as treasurer shall also liaise with the custodian of the funds on a monthly basis.

Section 8. Legal Status

- A. The Trust is public employer and the Trustees are public employees for the purposes of G.L. c. 258.
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- C. The Trust is exempt from G.L. c. 59 and 62, and from any other provisions concerning payment of taxes based upon or measured by property or income imposed by the Commonwealth or any subdivision thereto.
- D. The Trust is a governmental body for purposes of Sections 23A, 23B and 23C of G.L. c. 39.
- E. The Trust is a board of the Town for purposes of G.L. c. 30B and G.L. c. 40 § 15A but agreements and conveyances between the Trust and agencies, boards, commissions, authorities, departments and public instrumentalities of the town shall be exempt from said Chapter 30B.

Section 9. Duration of the Trust

This Trust shall be of indefinite duration, until terminated in accordance with applicable law. Upon termination of the Trust, subject to the payment of or making provisions for the payment of all obligations and liabilities of the Trust and the Trustees, the net assets of the Trust shall be transferred to the Town and held by the Select Board for affordable housing purposes. In making any such distribution, the Trustees may, subject to the approval of the Select Board, sell all or any portion of the Trust property and distribute the net proceeds thereof or they may distribute any of the assets in kind. The powers of the Trustees shall continue until the affairs of the Trust are concluded.

TO: Arlington Finance Committee

FROM: Christine Deshler, Vice Chair
Darrel Harmer
Jonathan Wallach

RE: Arlington Police Department Review

DATE: October 28, 2020

Recent national and local events have caused many residents of Arlington to question current models of policing, decrying the increased “militarization” of the police, favoring a more community-based model of safety, support and prevention, and expressing a desire that the Town’s force better reflect and represent its diversity and values. Some have called for “defunding” the police department or even eliminating it entirely. Anticipating that Town Meeting Members would turn to the Finance Committee for guidance in making decisions concerning the police department budget, in July 2020, the Chair of the Finance Committee requested that Vice Chair, Christine Deshler and members Jonathan Wallach and Darrel Harmer conduct an in-depth survey of the police department.

The subcommittee met (virtually) several times throughout the summer and fall of 2020 and collected data from various sources, including from the Arlington Police Department itself. Throughout this process, the focus of the subcommittee was to determine the extent of the Department’s resources and to assess how those resources are currently being deployed. Its findings are discussed below. The subcommittee hopes that this report will help inform the Finance Committee in making its budget recommendations.

Certification of the Department.

The Arlington Police Department is fully accredited by the Massachusetts Police Accreditation Commission. It is currently undergoing a reaccreditation process, which occurs every three years. The Department became a Certified agency in 2008, one of the first police departments to do so. It became fully accredited in 2014.

Accreditation is a voluntary process, which requires the department to satisfactorily meet all 257 mandatory standards and at least 60% of 125 optional standards set by the Commission. These standards provide guidelines for the law enforcement professional as well as establish expectations for the delivery of police services to members of the community. These standards cover a number of areas such as policy development, emergency response planning, training, communications, property and evidence handling, use of force, vehicular pursuit, prisoner transportation, and holding facilities.

Human Resources.

Diversity

The Department is led by Juliann Flaherty, the town's first female police chief.

Although the Department is being led by a female police chief, there are no female captains, lieutenants or sergeants on the Arlington police force. Of the 61 FT sworn officers currently employed by the Department, only 6 (10%) are woman.¹

Like its lack of gender equality, the racial makeup of the Department lags behind the diversity of the Town. According to the 2010 U.S. Census Report, Hispanic and racial minorities comprise 16.4% of the Arlington population. (Of that 16.4%, 57% identify as Asian). Of the 61 FT sworn officers in the police department, only 4 (6.6%) are minorities (2 Black, 1 Asian, 1 Native American). The Department's civilian dispatchers and parking control officers are slightly more reflective of the town's diversity. Of the 9 dispatchers, 2 are female and 1 is Black. Of the 3 parking control officers, two are Black, one is female.

Efforts to diversify the police department are hampered by state law requiring that the Town hire only from the civil service list.² Even the Department's efforts to diversify its force by seeking to hire lateral officers have been unsuccessful because no officers have applied.

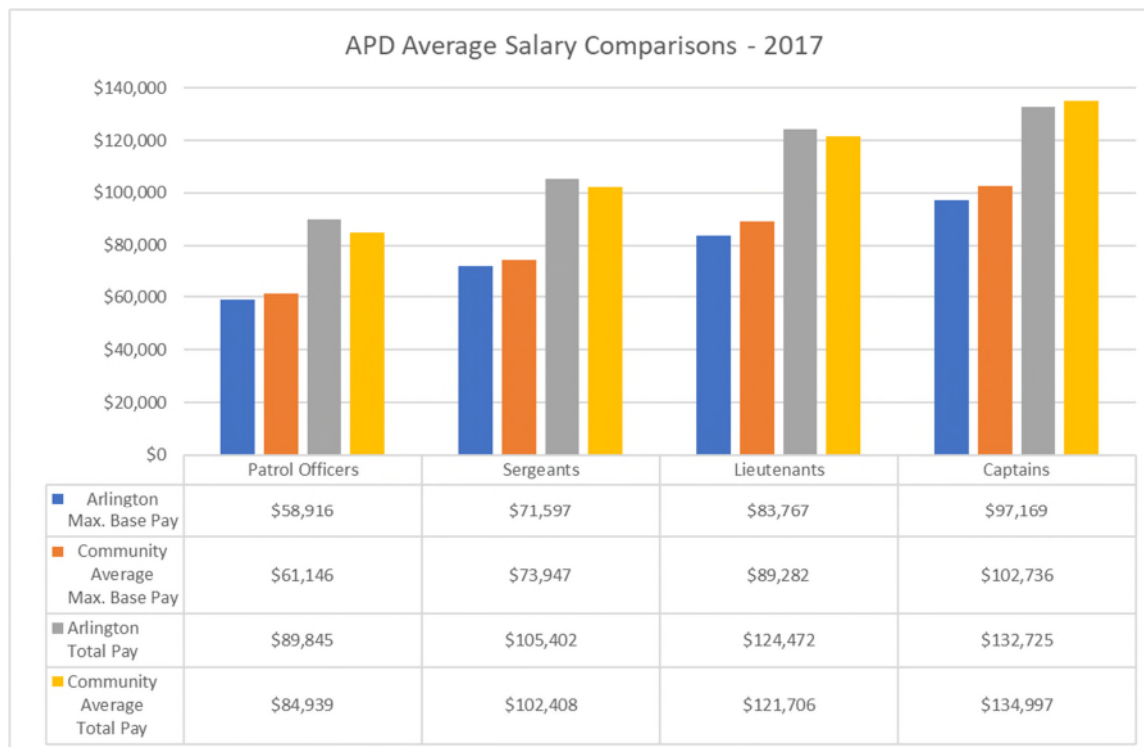
Salaries

According to a 2017 Town study, which attempted to compare Arlington's maximum base pay for patrol officers, sergeants, lieutenants and captains with those of comparable communities, Arlington's maximum pay is below average as shown in the following chart.

However, when longevity (at 25 years), education pay, holiday pay, night differential pay, clothing and cleaning allowances, and defibrillator pay, are factored in, Arlington's salaries exceed the averages as also shown below.

¹ According to national statistics compiled by the Bureau of Justice, women account for about 12% of all police officers, 10% of police supervisors, and only 3% of local police chiefs in the United States.

² Candidates must also successfully complete training at the police academy before being employed by the town.



The subcommittee cautions that this information may be out-of-date. At least one of the comparable communities, and possibly others, have renegotiated their police union contracts since 2017. The subcommittee has been informed that the Town has contracted with a vendor to conduct a new round of salary surveys for all positions across town, including but not limited to the police department. This study, however, is several months away from completion.

Training

In 2019, the Department sent employees to 19 different training programs. Approximately half of these programs provided training in fundamental crime and safety areas (i.e. active shooter training, report writing, Criminal Reform Act training, internet crimes against children training, use of force training, and others). The other half of these training programs addressed community policing, or diversity and bias issues (i.e. Cultural Diversity and Bias Training for Public Safety, Implicit Bias, LGBTQIA, suicide prevention, ADL Law Enforcement Seminar, Procedural Justice/Implicit Bias, Recognizing Symbols of Hate, and others).

These programs are in addition to firearms recertification, the 40 hours of in-service training the Municipal Police Training Committee requires for all sworn officers, breath-test certification, ethics training, and in-custody suicide prevention training, which are all mandatory.

The Police Chief is committed to continuing training programs in de-escalation, unconscious bias, fair and impartial policing, and mental health first aid. She has identified an additional training program that she (and the department's mental health clinician) would like all officers to

attend: Crisis Intervention Training. Such training is becoming increasingly important given the calls for services involving behavioral, mental health or substance abuse issues. (See below). The cost for such training is estimated to be approximately \$108,000.³

The Police Chief would also like to conduct an additional 8-hours of firearms training, to include de-escalation techniques. If conducted at night, which would be more useful to the Department, the cost of such training would be approximately \$35,000.

Operational Budget

Spending

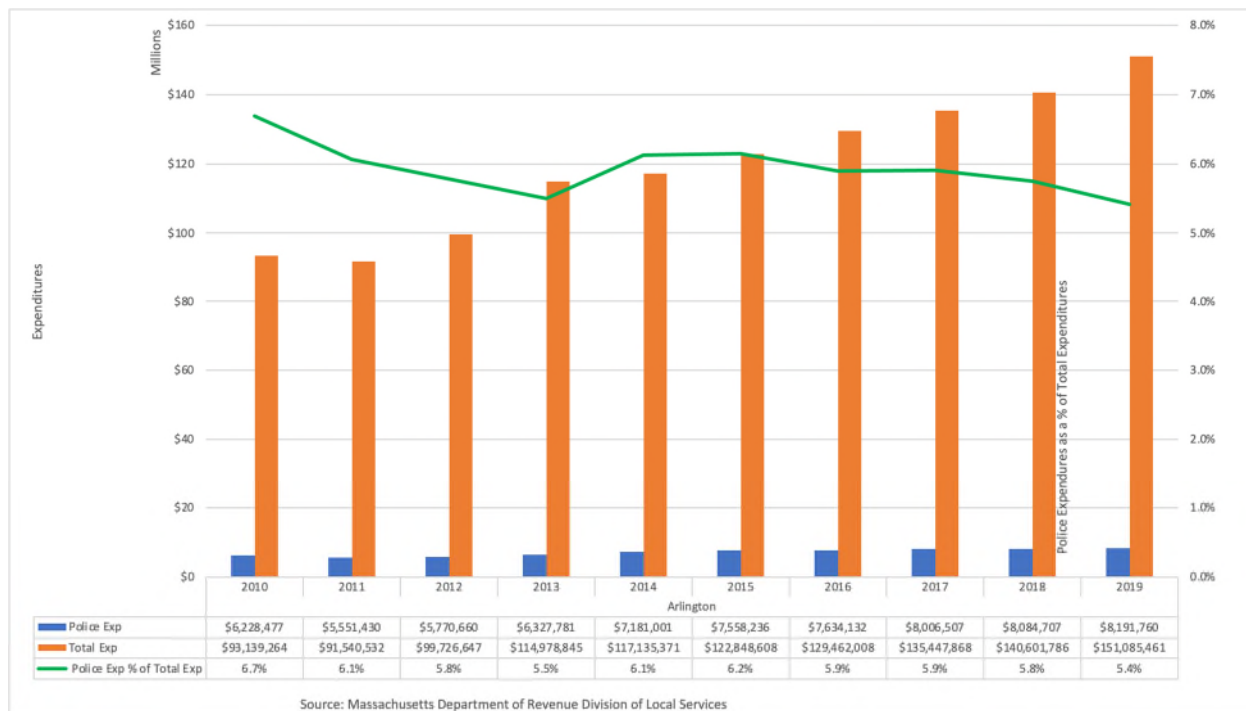
The Police budget, at \$8.5 million (FY 21), is the town's 6th largest budget, after the Education (\$75.5 million), Capital (\$16.2 million), Insurance (\$18.8 million), Retirement (\$13.2 million), and Public Works and Facilities (\$12.3 million) budgets.⁴

The Police budget has increased on average 3.15% each year for the past 10 years, less than the 3.25-3.5% cap that the Town Manager has placed on all operating budgets in keeping with commitments made to voters in override campaigns during that period.

The chart below shows Police expenditures in Arlington compared to the Town's total expenditures from FY 2010 – FY 2019. APD's expenditures increased by approximately 32% over that time period but the Town's total expenditures increased by 62%. As a result, the APD's share of overall Town expenditures has actually decreased from 6.7% in FY 2010 to 5.4% in FY 2019.

³ The subcommittee understands that most of the Somerville police department is CIT trained.

⁴ This does not include the Water & Sewer Enterprise Fund budget at \$22.9 million. The 7th and 8th next largest budgets are the Fire budget at \$7.7 million and the Minuteman Regional School budget at \$6.1 million.

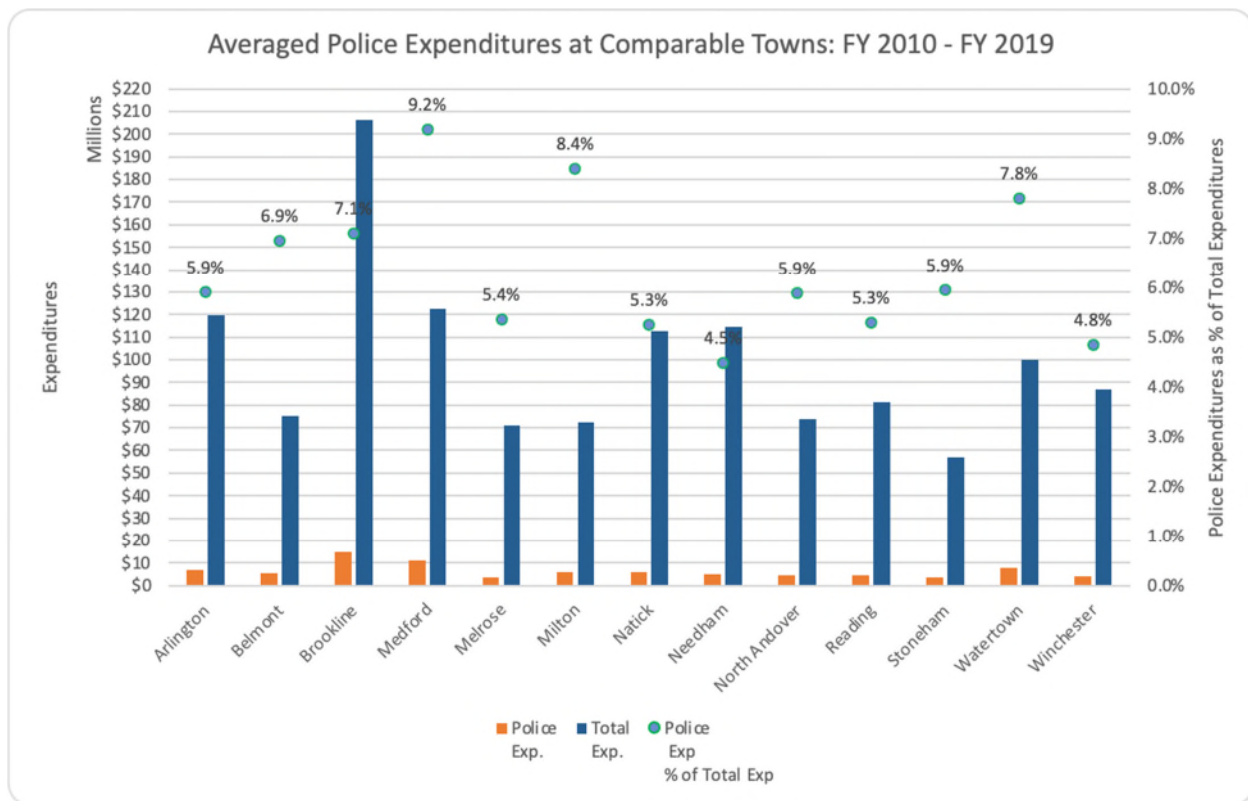


For that same 10-year period, overtime expenses for the Department increased on average 8% each year. The subcommittee determined that the major driver for this increase has been vacancies in budgeted positions, which are difficult to fill given the constraints of civil service as well as the candidates' own ability to successfully complete police academy training. Additionally, there have been several absences due to injuries or illnesses, requiring positions to be backfilled.⁵ Given minimum staffing requirements, it may be difficult to reduce overtime costs without filling positions.

Arlington ranks 12th out of 14 comparable communities in terms of per capita spending on police services.

Based on Commonwealth DOR Division of Local Services data averaged from FY 2010 – FY 2019, Arlington ranked 4th highest out of 13 comparable communities for police expenditures but 7th highest when comparing the police department's share of total expenditures in each community.

⁵ Overtime expenses are also incurred when extra patrols or investigations require it.



Number of Employees in the Department

Over the course of the past 10 years, the total number of positions budgeted in the police department has not increased dramatically. From FY 2011, the Department gained 1 captain, 1 lieutenant, 2 sergeants and 2 patrol officers.⁶ During the same time, the Department saw some reductions in the parking control officer and senior clerk positions.

Perhaps the most significant change in personnel has been the creation of a full-time social worker position. (See discussion of the Jail Diversion Program below).

Arlington ranks 11th out of 13 comparable communities in terms of the number of police department employees per capita. It ranks 7th out of 13 in the number of patrol officers employed on a per capita basis.

Capital Budget

Vehicles

The Department has 13 marked cruisers (including one prisoner transport vehicle, which is not included in the department's established replacement schedule). The Department also has 11

⁶ As a result of a reorganization of the Community Safety budget in FY 14, the salaries of the police chief and administrative and support staff, including dispatchers, were moved into the police department budget.

unmarked cars; 2 “drug cars” used by the Drug Enforcement Unit; 4 Harley Davidson motorcycles; 1 Smart traffic car; 1 animal control vehicle; and 2 utility trailers.

Marked cruisers are in constant use 24/7/365. The Department’s practice is to replace these vehicles every three years. This has been the Department’s practice for 25 years, although for a brief period during Chief Ryan’s tenure there was an effort to extend the replacement period to every 4-5 years. However, the Department found that doing this increased the frequency of vehicles being out of service which then degraded response time, increased repair costs, and reduced vehicle trade-in value. Consequently, the Department reverted to its established practice of replacing cruisers every 3 years.

The Department’s Master Mechanic believes that it is the practice of most police departments in New England to replace their vehicles every 3 to 4 years.

The Department’s unmarked cars, which are not used as much as marked cruisers, are kept longer than 3 years.

At this time, a reliable fully electric police-certified vehicle is not available for purchase. The Department anticipates revisiting the idea of purchasing an electric vehicle in 2022. The Department will not commit to purchasing an electric vehicle unless it is satisfied that such a vehicle can reliably serve the Arlington community.

Vests

Every officer is issued a level 2 or 2a vest while in the academy. Each officer is responsible for caring for the vest. The vests are replaced every 5 years in accordance with the Massachusetts Police Accreditation Commission and National Institute of Justice guidelines, as well as manufacturer recommendations.

All officers are required to wear their vest whenever they are in uniform. The type of vest employed in Arlington is not a “military-styled” vest, but rather a more discreet vest that blends in with the officer’s uniform. This type of vest is commonly used in departments throughout New England, but is less common in the rest of the country.

The written vest policy was adopted by both unions and has allowed the Department to be eligible for grant money from the federal Department of Justice.

In addition to an officer’s personal vest, each marked vehicle is equipped with a level 3 ballistic vest, which is intended for use when the threat is greater than normal. Such vests would be worn in situations where officers are responding to active shooters or where the community is threatened with high-powered weapons. These vests are also replaced every 5 years in accordance with established guidelines.

Firearms

The Department does not have a written firearm replacement policy. Firearms are replaced every 10 years in accordance with both the manufacturer's recommendations and national standards.

The Department is currently issuing Glock 45s to officers, as recommended by the FBI.

The Department also has 6 .223 long rifles; 3 shotguns; 3 "beanbag" shotguns; and 2 smooth bore 410 shotguns ("varmint rifles"). None of these are military grade or have any specialized modifications.

Patrol rifles and shotguns are stored in marked vehicles in a locked rack. They are deployed only when an officer needs to create distance between the threat and the officer, such as in an active shooter situation, a bank robbery, or a hostage situation. The less lethal firearms are also stored in locked racks in marked vehicles and are also deployed to keep distance between the threat and the officer or community. An example would be when there is an armed person with a knife. All officers are trained in de-escalation techniques. The varmint guns are obviously used only for the purpose of euthanizing sick or injured animals.

Military Equipment

The Department does not participate, and has never participated, in the 1033 Program (which transfers excess military equipment to civilian law enforcement agencies). It does not have armored vehicles, military grade firearms, grenades or explosives, or any other type of military equipment. The Department does own 6 ballistic helmets that were purchased 30+ years ago but have not been deployed in the last 25 years or perhaps, ever. The Department does not have or use "stun guns" or tasers.

To the extent the Town ever needs military-grade equipment, heavy arms, or other such equipment in an extreme emergency, they are available to the Town as a member of the Northeastern Massachusetts Law Enforcement Council, discussed below.

Partnerships and Other Resources Available to the Department.

The Department applies for and has received the state's 911 Support and Incentive Grant. This grant can be used for equipment and other support related to the 911 call center. The Department has also applied for and received the state's 911 Training Grant which supplements the yearly required dispatch certifications and trainings.

The Department has a full-time police officer assigned to a task force within the Drug Enforcement Administration and the Federal Bureau of Investigation. The Department is reimbursed approximately \$18,000 for each officer to supplement any overtime the officers are required to work.

In return, the Department benefits from the resources received by both agencies. As part of the FBI Task Force, the Town takes advantage of trainings offered at no cost. The FBI recently came to Arlington and provided Alert Active Shooter Training, which saved thousands of dollars for the Department. In addition, the Department has taken advantage of other resources from the FBI, including personnel and equipment. For example, the FBI recently provided equipment, at no cost, to the Town to ensure the security of outside ballot boxes. The FBI has also assisted in the Department's investigation into the Human Trafficking of employees of massage parlors and spas in town.

As part of the DEA Task Force, the Town receives a percentage of all asset forfeitures when the Arlington officer assigned to the task force is involved. The Department also takes full advantage of all investigatory personnel and equipment made available by the Task Force to assist the Department in any drug investigations in town. According to Chief Flaherty, Arlington is seen as a leader in the fight against opioids and depends on this task force for assistance in that fight.

Arlington is also a member of the Northeastern Massachusetts Law Enforcement Council (NEMLEC), a consortium of police departments in Middlesex and Essex Counties, including the two County Sheriff's Departments. Members share resources and personnel, thereby collectively providing services and equipment to each other than might not be available to one agency. This means that officers from NEMLEC's many agencies can be made available to other communities during an emergency or an event that requires police services beyond what local police may have. NEMLEC coordinates this sharing of personnel and resources. Responding officers that report to provide mutual aid are under the complete control of, and follow all commands given by, the local chief of the department that requests services.

Arlington has 4 officers who are part of NEMLEC and have different functions within their assignments. For example, one officer provides support services for the NEMLEC communication van. Another officer is part of the motorcycle unit and responds to callouts for assistance with funerals, parades, and other large-scale events. The Department recently called the motorcycle unit out for assistance with the AHS Caravan Graduation Ride. They were able to provide assistance with traffic as the Department did not have the personnel available to provide safe temporary road closures. They also provided an escort and traffic assistance for a missing POW who was returned home to Arlington and laid to rest after 65 years last summer.

NEMLEC also has a SWAT team and Rapid Response Team that assist with critical incidents and are available for missing person searches (including children or elderly who have wandered off). They have also assisted with road closures for Arlington's Patriots Day Parade and Town Day. They are available to assist with critical incidents involving barricaded persons, high risk warrants service and hostage situations. Arlington, like most communities, does not have the personnel, training or equipment to handle critical incidents such as these on its own. Being a NEMLEC member gives the APD full access to all the organization's resources which saves the Town from having to provide specialized training and purchase expensive equipment that is likely rarely needed.

Pressures/Constraints/Stressors

Crime

For the 11-year period from 2009 to 2019, the number of Part 1 Crimes⁷ in Arlington declined dramatically by over 49% (634 to 322).

Many of the calls for services (CFS) do not involve crimes. Over 20% of the CFS are for medical assistance, including mental illness, as well as for issues related to homelessness. Over 11% of the CFS are in response to motor vehicle crashes or parking complaints. Neighbor disputes and disturbances account for 3.5% of the CFS. Animal control responds to 3% of the CFS.

The Department employs an in-house crime analyst, who is also a part-time dispatcher. The analyst can search a database to track past crime reports, although this is a time-consuming task. The subcommittee was provided with a map showing where a year's worth of 911 calls originated. Of these 1,111 calls received, approximately 23% originated in Sector 5 (roughly, the northwest Turkey Hill area), another 23% originated in Sector 3 (the Morningside/Stratton area), 16.7% originated in Sector 6 (the Park Circle/Poets Corner area), 13.7% originated in Sector 1 (East Arlington, north of Mass. Ave); 13% originated in Sector 2 (East Arlington/Spy Pond area); and 10.5% originated in Sector 4 (Menotomy Rocks area).

According to the Department, the most significant crime trend being detected now are scams, including identity theft.

COVID-19

Since March 2020, the Department has spent approximately \$65,000 on personnel and operating expenses related to the COVID-19 pandemic. This includes the purchasing of PPE, cleaning services and other costs associated with the Family Cares Act and needed quarantines.

Because of the closure of courts and the reliance on videoconferencing for arraignments, the Department experienced an increase in the amount of time offenders were in custody. Consequently, officers were encouraged not to make arrests where possible and, instead, to issue summonses to offenders to appear in court. Arrests continue to be made for serious crimes, warrants and all domestic-related assault and batteries.

Community Policing Issues.

Community Programs

The Department is actively engaged in a number of community programs, including Rape Aggression Defense classes, "Coffee with a Cop", the Arlington Citizens Police Academy, youth programs, and more. The reader can refer to the Town's [Annual Report](#) or the [APD's website](#) for more information about this additional work that officers do for the town.

⁷ This includes such serious crimes as murder, rape, robbery, aggravated assault, burglary, larcenies, and arson.

Social Worker and the Jail Diversion Program

The Department created the Jail Diversion Program in 2010 to create alternatives to arrest and jail detention for individuals who could benefit from mental health, substance abuse or other social services. At the time, this was a unique program that other departments across the country have since adopted.

Previously, officers were forced to either transport the individual to the nearest hospital emergency room or take the individual into custody for a minor criminal offense. Now, with the Jail Diversion Program, a social worker joins officers on mental health-related calls as a co-response team. The social worker assists in stabilizing the scene by utilizing de-escalation techniques and providing victim assistance, while the officers focus on maintaining a safe, secure scene. At the scene, the team determines the best approach to the individual. If a crime has been committed, an assessment is made as to whether the individual is appropriate to divert from arrest into treatment. If diverted, or if no crime has been committed, the social worker works with the individual to identify needs, connect the person to hospital or community-based treatment and arranges for continued follow-up.

Since 2010, the program has been expanded to include a Hoarding Team, a nationally recognized Opiate Overdose Outreach Initiative, and a Homeless Outreach Team. The Department's Jail Diversion Program has been nationally recognized by the Justice Center Council of State Governments as one of ten Law Enforcement Mental Health learning sites; police departments from around the country come to Arlington to learn about its program.

Given the success of the program and the continuing community need for such services 24/7/365, the Police Chief has expressed a desire to add an additional social worker to the Department.

Review of Potential Liabilities.

Use of Force

The Department has an extensive and detailed written Use of Force policy, including hand control. Officers who use force are required to file a "use of force report" immediately with their supervisor. At the end of the year, all "use of force reports" are reviewed by a Committee on Use of Force.

In the past 5 years (including 2020 to-date), there were, on average, 5 "use of force reports" filed each year. The majority of these events involved hand control. For 2020 to-date, there have been 5 "use of force reports" filed. Of those 5, 4 involved hand control and of those 4, 3 involved encounters with individual with behavioral issues.

Within at least the past 10 years, there have been **no** complaints alleging excessive use of force by any officer of the Department.

Bias and Discrimination

Within at least the past 5 years, the Department has received only **2** complaints of bias by officers. The first, which occurred approximately 5 years ago, was investigated and determined to be unfounded. The investigation of the second complaint filed in February 2020, is ongoing. The Department is continuing to work with the Human Rights Commission to resolve that matter.

Hi Al:

I have several issues I would appreciate your reviewing with the proponents of Article 8 of the STM, the subject of the article "Acceptance of Legislation /Bylaw Amendment/Municipal Affordable Housing Trust Fund, which I will generally refer to as the AHTF.

First, I would like to thank you for undertaking this challenging task of educating the Finance Committee, including me, on this complex subject. This letter is not a reflection of anything other than awe at your work. However, I want to make sure that we as a Finance Committee diligently consider all of the issues as we prepare a report for Town Meeting on this matter.

In my review of the proposed article, reference material supplied by Planning Director Jenny Raitt, and various web-based material I have reviewed, I classify potential AHTF activity in three categories:

- Banking and Financing
- Purchasing and Selling Property
- Operating, that is developing or holding and renting properties.

I realize all of these potential activities are directed towards a worthy cause, namely increasing the stock of affordable housing in Arlington. I also note that there appears to be no limit on the size or scope of these activities. For example, hypothetically, the AHTF could purchase a condo for affordable housing purposes or could develop a housing project for a large sum, say \$50 million or \$100 million.

I have no comment on "banking and financing". However, the purchasing/selling and operating categories are not without risk. In my memory, during the 1980's, the Town attempted to develop the Reeds Brook property and two different developers and partners, due to external conditions, had to declare bankruptcy. In each case the scope was in the millions of dollars. Eventually the Town decided to make the area into a recreation facility we now know as McClennan Park. In more recent times, in this century, the Town undertook to develop the Symmes Hospital site, and after a long and transparent public process, selected through a competitive tender a well-respected and successful developer, Ed Fish. During the development process, as a result of the 2008/2009 recession, his effort went into bankruptcy, as did that of a second developer. After some time, a third group was brought in and the project was successfully brought forward. This entire process took more than fifteen years.

My point is that development projects and land reuse are not simple undertakings. Despite the best intentions and well-developed skills of everyone involved, bad things still happen. There is tremendous risk in these undertakings.

I see four areas of risk that we Finance Committee members should carefully consider in evaluating this proposed article and vote:

1. **Liability.** In any operating scenario, workers, residents or other members of the public could be seriously injured, even to the point of death. The larger the project, the greater is the possibility of risk to the Town. How will this risk be managed over the long run through the AHTF? How do we know the AHTF will have the expertise and management skills to insure against this risk, especially through culpable negligence via omission or commission that may be assigned the Town in a legal action?
2. **Borrowing Money.** The proposed AHTF is permitted to borrow funds without the approval of Town Meeting, and language in the Article is included to prevent a lender from seeking, in the case of default, redress from the Town. Why should the AHTF have this capability when the voters have historically only permitted borrowing with the approval of Town Meeting, whether for schools, town buildings, rolling stock, equipment etc.? Can AHTF debt cause the Town to risk exceeding the Town's statutory debt limit without Town Meeting having any control? We have a system that has worked for many years - why change it?
3. **Increased Taxes.** The article allows the fund to raise money through land transfer fees, building permits and the like. Before every Town Meeting, the Finance Committee has asked the Town to define the cost to the taxpayer of every money article, no matter how small. The proponents of this article clearly have in mind securing more taxpayer money from non-traditional methods. Regardless, it is still from the taxpayer's purse, and the Finance Committee has an obligation to determine how much this will be and to inform Town Meeting.
4. **Use of Town Resources.** We are in a period of uncertainty. In a few short years, our reserves will run out. We will have to return to the voters to seek an additional operating override in the milieu of huge spending on a new high school that is likely

the most expensive high school in the state. These costs are rolling through to the taxpayers when many of them have lost their jobs and are living in threatened times. We have just seen Town leaders transfer almost \$9 million from an over-budget exempt building project to the capital plan within the non-exempt budget, putting further pressure on Town operations. We need to know how much time and support the AHTF effort will take from Town Management, Planning and Development, Legal, ISD, etc., and what the cost of this will be. We are likely to have less future resources to address this, not more. I was involved in the Symmes project, and I know that when things went badly it consumed an enormous amount of time and cost for the Town Manager and staff.

I would like to suggest that we consider and include in our deliberations

1. Getting commitments from the Town on limiting risk and the scope of projects without Town Meeting approval,
2. Have all AHTF borrowing approved by Town Meeting, and
3. Getting a commitment from Town Management that support for AHTF will not result in increasing departmental personnel costs, and that we get an estimate of the costs that will be devoted to AHTF support.

We should hear Town Management's opinions on all these issues and carefully weigh the risks and costs before we take any vote and make any recommendation to Town Meeting.

Best,
Charlie

Charlie Foscett
101 Brantwood Road
Arlington, MA 02176-8005
1.781.492.0800 (Mobile)
1.781.646.5882 (Home)
1.781.641.4769 (Fax)
Email: charlie.foscett@foskettco.com
Skype: cfoscett